RIGHTS OF ANIMALS IN INDIA: A SOCIO-LEGAL STUDY WITH SPECIAL REFERENCE TO THE STATE OF HIMACHAL PRADESH

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Supervisor
Dr. Ambika
Assistant Professor of Law

Submitted by
Monika Gautam
(9020192001)

HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA
16 MILE, SHIMLA-MANDI NATIONAL HIGHWAY, GHANDAL
DISTRICT SHIMLA, HIMACHAL PRADESH- 171014
Ph.0177 - 2779801, 0177 - 2779803, Fax: 0177-2779802
Website: http://hpnlu.ac.in

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INTRODUCTION

"Animals are more than ever a test of our character, of mankind's capacity for empathy and for decent, honorable conduct and faithful stewardship. We are called to treat them with kindness, not because they have rights or power or some claim to equality, but in a sense because they don't because they all stand unequal and powerless before us. "[1]

Matthew Scully

Animals have formed and will always form a central feature of the human world. We may choose to ignore them or may even remain in total ignorance of the vast majority of them but those with which we do interact have a profound importance. The sharing of life itself is crucial. It is to be understood that no matter how much technology appears to cut us off and tries to form a barrier in the societies from the natural world, it remains pervasive and indeed we are presented with some major issues concerning animals as pressing as at any time in history. We live in an age when the rights of the animals and women as well as mentally retarded, disabled people and racial minorities are recognized as having been too often ignored in the past. All we have to do now is to reflect on the rights of the animals and their welfare, how it use to be in the past, how it is changing and how we would want it to change in the future. There are millions of views and opinions regarding animal rights and different people have different views on animal rights. Rights of the animals are debatable issues that are steeped in controversy because it touches almost every aspect of the society. Animals in India have been granted certain rights such as right to live a life of dignity and honor under the Indian Constitution and recently has been declared as a legal entity etc. but these rights are considered controversial because it requires society to stop using and treating animals in certain ways and these sentient beings would no longer be subject to inhumane treatment. It is well observed that nonhuman animals are being used in various fields such as amusement, experimentation, agriculture, fur industry, transportation etc. Animals are being cruelly treated in almost all the parts of

[1] Matthew Scully, *Dominion: The Power of Man, the Suffering of Animals, and the Call to Mercy*, 24 (St. Martins Griffin Press, New York, 2002)

our country and majority of the people are either not aware of the animal laws that protect these sentient beings or even after being aware do not want to come forward to protect these animals. While on one hand humans claim to accept the principle that suffering and death on nonhuman animal should not be inflicted unless it is necessary to do so, on the other hand humans do inflict suffering and death to these beings in most of the situations in which 99.99 percent of such infliction cannot be justified. It is to be noted that in India the nonhuman animals are being used and abused by the so-called human beings in their human centered activities and on the other hand animals are worshipped and revered by the people.[2] In India an unprecedented and growing interest can be seen for the well being of animals. While there are many people who treat nonhuman animals with respect and dignity, there are many others who also agree that good welfare is not good enough. If we ask people whether animals have rights or they feel pain and suffering then different people will give different answers based upon their values. In India we have a central legislation that deals with the protection of the animals.

The Prevention of Cruelty to Animals Act, 1960

The Prevention of Cruelty to Animals Act, 1960 is the central legislation that deals with protection of animals in India. The Act is intended to prevent the infliction of unnecessary pain or suffering on animals and declaring certain types of cruelty to be offences. It also provides penalties for offences and makes some more serious of them cognizable. The Act also contains provisions related to AWBI (Animal Welfare Board of India), which is established with the object of promoting measures for animal welfare.

In exercise of the powers conferred by various provisions of the Prevention of Cruelty to Animals Act, 1960, the central government enacted the following rules. Some of them are:

- The Prevention of Cruelty to Draught and Pack Animals Rules, 1965
- The Performing of Animals Rules, 1973
- The Transport of Animals Rules, 1978
- The Prevention of Cruelty (Capture of Animals) Rules, 1979
- The Experiments on Animals (Control and Supervision) Rules, 1968 etc.

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[2] Aubrey Manning and James Serpell (eds.), *Animals and Human Society: Changing Perspectives*, XI (Taylor & Francis-e- Library, 2003)

It can be observed that even though we have laws that protect animals still there are a lot of inadequacies in the present law and also the Act imposes fines so low that they have virtually no deterrent effect and the cruelty towards animals is still on the rise. Some of the legislations which have provisions related to animal protection are The Wild Life (Protection) Act, 1972, The Indian Penal Code, 1860 and The Constitution of India.

Important definitions:

Animal: According to The Indian Penal Code, 1860 the word animal denotes any living creature, other than a human being.

According to Oxford Dictionary Animal means any living organism that feeds on organic matter typically having specialized sense organs and nervous system and able to respond rapidly to stimuli.

Animal rights: According to Encyclopedia Britannica it means moral or legal entitlements attributed to nonhuman animals usually because of the complexity of their cognitive, emotional, and social lives or their capacity to experience physical or emotional pain or pleasure.

Animal welfare: According to the Collins English Dictionary Animal Welfare means the protections of the health and wellbeing of animals.

Animal cruelty: The Encyclopedia Britannica defines animal cruelty as a willful or wanton infliction of pain, suffering, or death upon an animal or the intentional or malicious neglect of an animal.

Speciesism: Encyclopedia Britannica defines it as the practice of treating members of one species as morally more important than members of other species; also, the belief that this practice is justified. The term speciesism was introduced by the English philosopher Richard Ryder in the 1970s and subsequently popularized by the Australian philosopher Peter Singer. Ryder, Singer, and other opponents of speciesism have claimed that it is exactly analogous to racism, sexism and other forms of irrational discrimination and prejudice.

LITERATURE REVIEW

In order to proceed with the research work, literature available has to be reviewed. Various books and journals on issue of animal rights have been reviewed. Some of these are mentioned below:

Matthew Scully in his work ***Dominion: The Power of Man, the suffering of Animals, and the Call to Mercy*** **(2002)** discusses that many of us seem to have lost all sense of restraint towards animals, an understanding of natural boundaries, respect for them as beings with needs and wants and a place and purpose of their own. Too often, too casually we assume that our interests always comes first and if it is profitable or expedient that is all we need to know. We assume that all these other creatures with which we share the earth are here for us and only for us. We assume in effect, that we are everything and they are nothing. Animals are so easily overlooked, their interests so easily brushed aside. It is true that there will always be enough injustice and human suffering in the world to make the wrongs done to animals seem small and secondary. The answer is that justice is not a finite commodity, nor our kindness and love. When we find wrongs done to animals, it is no excuse to say that more important wrongs are done to human beings, and let us concentrate on those.

Aubrey Manning and James Serpell in ***Animals and Human Society: Changing Perspectives*** **(2003)** gives us an insight as to how animals have always formed and will always form a central feature of the human world. We may remain in total ignorance of, or choose to ignore, the vast majority of them but those with which we do interact have a profound significance. The sharing of life itself is crucial, and however mysterious the nature of animals may be, they are, as Robert Burns recognized when addressing a mouse, fellow mortals.

Tom Regan in his book ***Empty Cages: Facing the challenge of Animal Rights*** **(2004)** talks about the duties that we have towards a Nonhuman animal. According to him when the victims are other than humans i.e. animals than we have a duty to intervene on their behalf, a duty to speak out and to stand in their defense. We owe assistance to these animal victims. Help is something these animals are due, and not something it would be "awfully nice" of us to render. The inability of the animals to defend their rights makes our duty as humans to help them greater, nor less. According to him the meaning of animal rights is simple and profound. An animal right as it turns out is the simple idea because at the most basic level, it means that animals have a right to be treated with respect. It is considered a profound idea as its implications are far reaching. He writes that being kind to animals is not enough or avoiding cruelty towards animals is not enough.

The book ***Defense of Animals: The Second Wave*** **(2006)** by **Peter Singer (ed.)** revolves around the idea of "speciesism," a term that is now in good dictionaries.

Speciesism is, in brief, the idea that it is justifiable to give preference to beings simply on the grounds that they are members of the species *Homo sapiens*. The view that species is in itself a reason for treating some beings as morally more significant than others is often assumed but rarely defended.

Clive Phillips in his book ***The Welfare of Animals: The Silent Majority*** **(2009),** deals with the Cruelty to Animals and how Cruelty to an animal usually has the elements of an intentional act towards an animal, or willful neglect that causes unnecessary suffering, in that it affects their life, health or comfort.

Gary L. Francione and Robert Garner ***The Animal Rights Debate: Abolition or Regulation?*** **(2010).** The debate in this book mainly revolves around whether the animals should be used by the humans for their personal benefits or not. Gary L. Francione argues in favor of animal rights approach and that we have no moral justification for using animals for our own use. Irrespective of how "humanly" we treat them, we ought to abolish the use of animals. The different welfare regulations coming up makes people think that exploitation of animals have been made more "humane" which causes them to become more comfortable with the exploitation of animals and perpetuates and increase the use of animals. On the other hand ROBERT GARNER argues in the favor of the protectionist approach. According to him animals are different from humans and the moral value of human life is more than the moral value of animal life. Because of this reason some uses of animals are justifiable in that we should regulate our treatment of animals.

Paul Waldav in his book ***Animal Rights: What Everyone Needs to Know*** **(2011)** discusses in chapter 5 about the profound changes that are taking place in animal law by considering for specific categories that is legal education, litigation in courts, legislation by government bodies and the enforcement of the existing laws.

Maneka Gandhi, Uzair Hussain, Raj Panjwani in their work ***Animal Laws of India*** **(2013)** provides a detailed insight into the laws prevailing in the country for the protection of animals. In the introduction part Maneka Gandhi specifies as to how different groups are unaware of the prevailing laws. Teachers in schools and colleges do not know the dissection in schools is illegal if there are other alternatives available. The municipal Corporation is not aware that chickens cannot be carried stuffed in

tempos and that the slaughterhouses situated in colonies are illegal. The policemen are the most ignorant ones as most of them are unaware about the laws pertaining to animal abuse. Even the district administrative heads know nothing about the illegal trafficking of animals. Politicians too break their own laws. The state government too have failed and neglected in discharging their executive functions for the treatment and care of animals against which offences have been committed.

Peter Singer in his work ***Animal Liberation: The Definitive Classic of the Animal Movement*** **(2015)** compares the animal liberation movement with other liberation movements and tries to explain as to how some groups are oppressed by the so called powerful groups. According to him a lot of handicaps are being faced by the animal liberation. The first and the most obvious fact is that the members of the exploited group i.e. animals are not in a position to make an organized protest against the inhuman treatment they receive at the hands of humans. We who believe in animal liberation movement have to speak up on behalf of those who do not have a voice, who cannot speak for themselves. It is to be appreciated how serious this handicap is by asking ourselves how long blacks had waited for their equal rights if they had not been able to stand up for themselves and demand it. A group if it is not able to stand up and organize themselves against oppression, the more easily it can be oppressed. The most significant for the prospects of the animal liberation movement is the fact that the oppressor groups see themselves benefiting from the oppression and are directly involved in it. If we wish to avoid being numbered among the oppressors we must be prepared to rethink all our attitudes to other groups, including the most fundamental of them.

Corey Lee Wren in her book ***A Rational Approach to Animal Rights: Extension in Abolitionist Theory*** **(2016)** in Chapter 2 Irrationalists in Welfarist Organizational Pathways, talks about as to how Nonhuman Animals are beaten, raped, torn from their homes, separated from their families, enslaved, subjected to medical experimentation, killed, and even consumed by other members of society. For the most part, this is taken for granted as normal, acceptable, and even natural. This happens day in and day out in every human society to trillions of nonhuman persons. Nonhumans receive limited legal protection that tends only to respect the property rights of their "owners". Without a doubt; Nonhuman Animals comprise the largest oppressed group

in human society. They suffer the greatest number of injustices and receive the most limited attention and assistance. Because they, like human animals, are sentient and experience this inequality as a result of socially created hierarchies of power, they should not be excluded from moral concern and social responsibility.

Sunaura Taylor in her book ***Beasts of Burden: Animal and Disability Liberation*** **(2017)** deals with various kinds of conditions and problems that are being experienced by animals in various labs circuses and zoos due to captivity, abuse, poor care and breeding. For example elephants in circus are prone to serious arthritis because they are chained, forced to stand in cramped cages with little scope to exercise. (PETA) People for the Ethical Treatment of Animals reported that arthritis and foot disorders are one of the leading reasons for euthanasia given to captive elephants. There are huge amount of animals in zoos, factory farms and circuses showing signs of depression, mental illness, post-traumatic stress disorder and madness. The animals in zoos are regularly put on pharmaceuticals and antidepressants. All these problems raise profound ethical concerns the way nonhuman animals are being treated or actually mistreated by the human beings.

Anne Peters in the article ***Rights of Human and Nonhuman animals: Complementing the Universal Declaration of Human Rights*** describes as to what is the trend towards animal rights in domestic laws and why is there a need for international animal rights. He further declares that animals do not need free speech, freedom of religion, or equal access to public office but these sentient animals would benefit from acknowledgment of a right to life, a right to be free from torture, and physical liberty. In addition, the right to legal personality the "right to have rights"—would be the explicit or implied precondition for all other rights. Animal rights would not categorically rule out animals being slaughtered for food, kept as pets, or used in scientific experiments but they would place a higher burden on the justification of such uses. Animal rights would thus preclude the current routine sacrifice of fundamental animal interests in favor of trivial human interests.

The different laws, guidelines, regulations etc. are discussed in the ILAR Journal ***Laws, Regulation, Guidelines and Standards for Animal Care and Use for the Scientific Purposes in the Countries of Singapore, Thailand, Indonesia, Malaysia and India*** **(2016)** by **Leslie Retnam, Pradon Chatikavanji, Pattamarat Kunjara,**

Yasmina A Paramastri, Yong Meng Gon, Fuzina Nor Hussein, Abdul Rahim Mutalib, and Suresh Poosala The history of how the need for animal welfare in education, testing, research, training came into being is provided followed by background information which lead to the current status of laws and regulations in all these countries. The responsibilities and functions of various animal welfare institutions and ethics oversight bodies, enforcement agencies, penalties etc. are also provided.

STATEMENT OF RESEARCH PROBLEM

Violence against animals has become a routine phenomenon in India. Recently animal cruelty has been on a rise. India has one of the highest numbers of animal cruelty cases in the world but the worst conviction rates. The general public is not aware that animals too have rights. People do not know how to file FIRs or about the rules and procedures regarding animal protection. The municipal corporation treats animals cruelly while transporting them. Policemen and lawyers are most ignorant, as most of them do not know about any of the laws pertaining to animal abuse. As compared to the crime committed against human beings, animal related crimes are treated with apathy and societal indifference. An attempt is made to study about the rights of the animals and to analyze the laws related to animal cruelty and whether these laws are sufficient to curb the menace of the animal cruelty.

OBJECTIVES OF THE STUDY

1. To analyze the adequacy and effective implementation of present laws for animal cruelty in India and to evaluate the efficacy of functioning of various authorities.
2. To analyze the role of judiciary in protecting the rights of animals in India.
3. To examine the extent of awareness of people as to animal rights.
4. To analyze the international conventions and other strategies meant for identifying the protection extended to animals.

HYPOTHESES

1. The existing laws relating to animal protection are inadequate to protect the animals in India.
2. Judiciary is playing a positive role in protecting the rights of animals.
3. There is lack of awareness pertaining to animal laws.

RESEARCH QUESTIONS

1. Whether the present animal cruelty laws are sufficient to protect the animals in India?
2. What is the role of judiciary in protecting the rights of animals in India?
3. Whether there is awareness pertaining to animal laws in India?

RESEARCH METHODOLOGY

The present study shall make use of both primary and secondary sources of data.

Primary Data Collection

The study will make use of the primary data that will be collected through the survey. The survey will be conducted in the state of Himachal Pradesh.

Universe of the study

The universe of study includes police, lawyers, veterinarians, NGOs and general public residing in the State of Himachal Pradesh.

Sampling design

The study's design will include an online cross-sectional survey with non-random sampling.

Sample size

Sample size will include 400 people which will be categorized according to age, gender etc.

Tools of Data Collection

Primary data will be collected through:

- Structured Interviews
- Questionnaires

Secondary Data Collection

Secondary data will be collected though:

- Existing Literature available in various libraries

- Law Commission Reports
- Articles
- Statues and Legislation
- Newspaper Reports
- Online Articles and Journals
- Document Analysis

SIGNIFICANCE OF THE STUDY

Since the cruelty and violence on animals has become a routine phenomenon and is not something unheard of in India. Thus, the importance of study is that the issue needs an immediate discussion and action regarding animal violence and their rights in India. The study will also be helpful in providing an insight towards the need to amend the present outdated law and to have more strict laws on the prevention of cruelty to nonhuman animals in India.

TENTATIVE SCHEME OF CHAPTERIZATION

Chapter 1: Introduction

It deals with introduction of the study, its objectives, importance of the study, methodology used and review of the literature.

Chapter 2: Rights of Animals in India: A Historical Background

It discusses about the historical background, origin and development of the rights of the animals.

Chapter 3: Rights of Animals: International Legal Framework

It will discuss the international scenario related to animal welfare and their rights.

Chapter 4: Rights of Animals: Indian Legal Framework

It will discuss about the various laws and statues protecting the rights of the animals in India.

Chapter 5: Rights of Animals: A Judicial Discourse

This chapter discusses about the role of the judiciary in order to curb menace of animal cruelty and how judiciary is working towards granting the legal rights of the animals.

Chapter 6: An Empirical study on Cruelty towards Animals: A Study with Special Reference to the State of Himachal Pradesh

An empirical study will be conducted in the state of Himachal Pradesh in order to know the awareness of people and the workings of the different machineries of the government that deals with animal cruelty cases.

Chapter 7: Conclusion and Suggestions

The last chapter is the concluding chapter in which questions related to the study are summed up. For better implementation of laws some suggestions are also made.

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